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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/578,160

08/29/2006

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EXAMINER

BERTHEAUD, PETER JOHN

ART UNIT

PAPER NUMBER

3746

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/578,160	Applicant(s) KAGEBACK ET AL.	
	Examiner PETER J. BERTHEAUD	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/30/2010 has been entered. It should be noted that claim 1 has been amended and claim 7 has been added.

Claim Objections

2. Claims 1-6 are objected to because of the following informalities: In claim 1, line 14, the phrase "in case of blocked air stream" contains a typographical and/or grammatical error. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The reasons why are detailed below:

Claim 4 recites the limitation "the heated air" in line 4. There is insufficient antecedent basis for the limitation in this claim, or in claim 1 from which claim 4 depends.

Claim 5 recites, “a guiding cover (32) that leads *the air stream* from the opening (31) towards the exit opening (19) in the casing (11).” However, in claim 1, from which claim 5 depends (via claim 4), “the air stream” is defined in the following limitation, “said casing (11) is provided with an air inlet to let air in to the fan inlet (23) placed inside the casing (11) so that *the air stream* from the air inlet in the casing (11) to the fan inlet (23) cools the engine (20) and components inside the casing (11) before it enters the fan inlet (23) and leaves the blower (10) via a blower tube (14).” Later in claim 1, opening 31 is defined and is said to be positioned adjacent the fan wheel so that “air” is allowed to leave the fan in case the air stream becomes blocked. Therefore, since “the air stream” seems to be defined as the air that flows from the air inlet to the blower tube, it is unclear which body of airflow is being led “from the opening (31) towards the exit opening (19) in the casing (11),” as stated in claim 5, and at which point it occurs. Meaning, is “the air stream” as described in claim 1 only led out of the opening 31 towards the exit opening 19 in the casing 11 if there is a blockage? Or all the time? It is hard to determine exactly what the Applicant is claiming unless the bodies of airflow are better defined. Claim 7 depends from claim 5 and also recites “the air stream” limitation, going on to claim that “the air stream does not pass through the blower tube.” This is obviously in direct contrast to what is stated in claim 1, and a clarification of when and which body of airflow does this needs to be made. Thus, these claims are rendered indefinite. The Examiner requests that the various air streams be properly defined; for example, such terms as “main air stream” and “diverted” or “bypass” air stream would be favorable options. Appropriate correction is required.

Claim 6 recites that "the opening (31) is placed on the side of the fan housing (24) that is facing towards the back of the operator." This claim is rendered indefinite because it has not been defined where the back of the operator is located. It is Examiner's contention that an operator may use the invention in any number of positions, and that depending on their location the opening may or may not be facing his or her back. The location of the opening should be defined in reference to the other elements rather than the user. Furthermore, whether or not the opening faces any part of the operator lacks criticality and carries little patentable weight. Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlberg US 2002/0166195 in view of Whitney 6,308,375.

Dahlberg discloses, regarding claim 1, a leaf blower assembly comprising at least an engine 14 and a fan, said fan comprises a fan housing enclosing a fan wheel 10 and a fan inlet 13, said engine 14 and fan are surrounded by a casing 20, said casing 20 is provided with an air inlet 26 to let air in to the fan inlet 13 placed inside the casing 20 so that the air stream from the air inlet in the casing 20 to the fan inlet 13 cools the engine 14 and components inside the casing 20 before it enters the fan inlet

Art Unit: 3746

13 and leaves the blower via a blower tube (see tube extending from 12 in Figs. 1 and 2). However, Dahlberg does not disclose the fan housing being provided with an opening positioned adjacent to the fan wheel in the fan housing so that air is allowed to leave the fan in case of blocked air stream in the fan housing or blower tube.

Whitney teaches, further regarding claim 1, a blower assembly comprising a fan 24 comprising a fan housing, (see 20, 23) characterized in that the fan housing is provided with an opening 34 (see 34 which leads to 21 in Fig. 6) positioned adjacent to a fan wheel (within 24) so that air is allowed to leave the fan 24 in case of blocked air stream in the fan housing or downstream of the housing.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified the leaf blower assembly of Dahlberg by implementing an opening positioned adjacent to the fan wheel in the fan housing, as taught by Whitney, in order to vent the fan housing in case of a blockage so as to prevent damage to the fan and/or engine.

Re claim 2, Whitney teaches that the opening 34 (of Fig 6) is placed in a position in the fan housing where the pressure inside the fan housing (20, 23) is low so that the amount of leaking air through the opening is minimized during normal use (the position where the opening 34 is placed can be considered a low pressure position relative to the pressures at other positions in the housing. The Examiner points to figures 4 and 6 where it can be seen that opening 34 is placed on an inside curve of housing 27, which would be a low pressure position, as opposed to the wall on the outside curve, which would be a high pressure position, as shown by the flow arrows in Fig. 4).

Re claim 3, Whitney teaches that the opening 34 in the fan housing (23, 20) is placed close to the periphery of the fan wheel (the fan wheel is within 24 and can be considered close to opening because “close” is a relative term).

Re claim 4, Dahlberg, as modified, teaches that the opening (34 in Whitney) in the fan housing is placed near an exit opening (23 in Dahlberg) in the casing (20 in Dahlberg) so that the heated air is allowed to exit the casing.

Re claim 5, Whitney teaches that the opening 34 is surrounded by a guiding cover (see tube 25) that leads the air stream from the opening towards the exit (21).

Re claim 6, Dahlberg, as modified, teaches that the opening (34 in Fig. 6 of Whitney) is placed on the side of the fan housing that is facing towards the back of the operator (the combination is capable of teaching this limitation because whether or not the opening is facing the back of the operator is dependent on the operator’s position. The operator could very well have his back facing towards the opening no matter where it is placed; see the above 112 rejection).

Re claim 7, Dahlberg, as modified, teaches that the air stream passes from the fan housing out of the opening (air passes from 34 to 21 in Whitney, see Fig. 6) and exit opening (23 in Dahlberg) such that the air stream does not pass through the blower tube (The combination of Dahlberg in view of Whitney teaches that the diverted air stream would not have to pass through the blower tube because the exit opening would be on the fan housing of Dahlberg. This is further evidenced by Whitney because the diverted air stream exits opening 34 and vent 21, as seen in Fig. 6, before passing though intake shroud 34 seen in Fig. 2.

Response to Arguments

7. Applicant's arguments filed 8/31/2010 have been fully considered but they are not persuasive.

8. In response to Applicant's arguments with respect to claim 1: Applicant argues that the combination of Dahlberg in view of Whitney does not teach the newly claimed limitation that "the fan housing is provided with an opening *positioned adjacent to the fan wheel* in the fan housing." The Examiner respectfully disagrees. First, the above rejections have been clarified so Applicant can easily determine which reference is used to teach the various limitations. Therefore, it should be clear that Dahlberg is responsible for teaching just about every component of the assembly except for the "opening" in the fan housing. The Whitney reference has been used to teach this remaining "opening" limitation (specifically, element 34 in Fig. 6 of Whitney). The Examiner would like to point out that the opening 23 in Dahlberg is used to teach the exit opening in the casing, not the opening in the fan housing.

As for the new limitation in claim 1, the term "adjacent" is sufficiently broad and does not help to define the claim over Dahlberg in view of Whitney. The Whitney reference has been used to teach the "opening" limitation, and it is most certainly within the broadest reasonable interpretation of the claim to say that Whitney's opening 34 is positioned "adjacent" to a fan wheel (which is inherently within the blower 24). The term "adjacent" has not been further defined by the specification and thus the rejection of claim 1 as being unpatentable over Dahlberg in view of Whitney is maintained.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER J. BERTHEAUD whose telephone number is (571)272-3476. The examiner can normally be reached on M-F 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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